

IN SENATE OF THE UNITED STATES.

JUNE 15, 1848.

Submitted, and ordered to be printed.

Mr. MASON made the following

REPORT:

The Committee of Claims, to whom was referred the petition of Ann B. Cox, widow and executrix of the late Nathaniel Cox, navy agent at New Orleans, have had the same under consideration, and respectfully report:

The petitioner claimed payment by the United States of the sum of \$1,320 27, which it appears was due to her intestate on settlement of his account at the treasury, on the 16th day of October, 1829; and which it was alleged had never been paid to him. Favorable reports have been made in this case by both branches of Congress at former sessions, and bills reported for the relief of the petitioner, by payment of the amount claimed with interest.

Your committee deeming it worthy of inquiry, why this money had stood to the credit of the deceased navy agent, on the books of the treasury, for so long a time unpaid and unclaimed, referred the same (through their chairman) to the Fourth Auditor for information, and received, in reply, a communication from him dated on the 20th of December, 1847, and which accompanies this report, marked A.

In further prosecution of this inquiry, they thought it prudent to cause the accounts of Hawkins, referred to by the Fourth Auditor, to be investigated, on the supposition that the present claim may have been adjusted on that occasion, and with that view referred the papers to the Solicitor of the Treasury. They present with their report the reply of the solicitor, dated on the 31st January, 1848, with the letter of Mrs. Ann B. Cox, the petitioner therein referred to, and which are marked B and C, respectively, and which show that the claim demanded has been long since settled and finally adjusted; the said Cox, as surety for Hawkins, having been credited by the amount in settling the accounts of the latter.

Your committee have thought it proper to report these facts at length, as well to preclude all future claim on behalf of the estate of said Cox, as to point out the defective organization or administration in the law department of the government, to which

the attention of the committee was directed by the letter of the solicitor, to wit: the failure to notify the Second Comptroller of the set-off, so that the proper charge against said Cox might have been made on the books of the Fourth Auditor.

The committee recommend that the prayer of the petitioner be rejected.

A.

TREASURY DEPARTMENT,
Fourth Auditor's Office, December 20, 1847.

SIR: I have the honor to acknowledge the receipt of your letter of the 17th instant, enclosing a memorial of Mrs. Ann B. Cox, with accompanying papers, relative to a balance of \$1,320 27, alleged to be due from the United States to the estate of the late Nathaniel Cox, who was formerly a navy agent at New Orleans, and requesting to be informed why the demand has been so long postponed, and if there be any proper objection to the relief asked. I can only state, in reply, that the balance in question appears by the books of this office to have been due to Mr. Cox upon the settlement of his account in October, 1829, and that there is no evidence on the files or records of the office of that balance or any portion of it having been paid, as there should have been if such payment had taken place. I have no positive knowledge of the reason why an earlier demand of the said sum was not made. It may have been verbally made, and Mr. Cox may have been informed that the appropriation out of which alone the claim could be paid was exhausted; or, as I find that he was a surety of Joseph H. Hawkins, a previous navy agent at New Orleans, who was a defaulter, and whose account was not adjusted until the year 1841, I think it possible that he may have forbore to ask payment in consequence of that liability. Be that as it may, however, I feel safe in saying, from my confidence in the books of the office, that the sum in question has not been paid, and I am not aware of any objection to the granting by Congress of the relief asked in the memorial which has been presented by the executrix.

The papers which you enclosed to me are herewith returned.

I have the honor to be, sir, very respectfully, your obedient servant,

A. O. DAYTON.

To the Hon. J. M. MASON,

Chairman of the Committee of Claims, U. S. Senate.

B.

OFFICE OF THE SOLICITOR OF THE TREASURY,
January 31, 1848.

SIR: Yours of the 10th instant, enclosing the petition and papers in relation to the claim of the estate of Nathaniel Cox, has been attended to in this office. The claim presented is for \$1,320-27 due to Nathaniel Cox as navy agent at New Orleans. The books of the Fourth Auditor's office shew that sum due him. But, on referring to the records of this office, it appears that he was prosecuted as one of the sureties of Joseph H. Hawkins, former navy agent; that, on the second trial, Cox offered to set off this sum as applicable to the amount which he was bound to pay. Though not admitted as a set-off, owing to a technical objection, it was stipulated on the argument, by Attorney General Butler, that it should be applied on the judgment when perfected. The sum was allowed, and only the balance of the judgment collected. You will find the case reported in 10th Peters, U. S. Reports, p. 125. At pages 127-8 and 135 you will find this sum particularly mentioned. When this sum was applied the Second Comptroller should have been notified, so that he could have instructed the Fourth Auditor to charge it to Cox, and closed his account.

To show you that the petitioner now understands this matter as I do, I send you a copy of an original letter from her to her agent in this city, wherein she says her husband's counsel informs her this sum was applied; from all which, it is certain nothing is due from the United States. I return the papers sent to me.

Respectfully, your obedient servant,

R. H. GILLET,
Solicitor.

HON. JOHN M. MASON,
United States Senate.

C.

NEW ORLEANS, January 21, 1848.

SIR: Your letter of January 12, received yesterday, stating that Senator Mason, of the Committee of Claims, says that there was a probability in the statement of the account of my late husband, for \$1,320 27, having been settled as an offset of amount as security for Mr. Hawkins, as my husband had to pay the whole or half the amount, which was \$20,000. I believe Judge Dick was security for one-half; and Mr. Hawkins's estate was entirely insolvent. I instantly applied to Judge Strawbridge for information, he having been my husband's lawyer at the time, and herewith give you a copy of his reply:

NEW ORLEANS, January 21, 1848.

DEAR MADAM: In answer to your note of yesterday, I have to say that the supposition of Mr. Selding that the balance of \$1,320,

due Mr. Cox, has been settled as an offset to the claim against him as security of Mr. Hawkins. This will appear from the record of the suit in the United States district court. If the information be useful to you I will cheerfully refer the clerk to the papers, should you need a copy.

Very respectfully,

GEO. STRAWBRIDGE.

Mrs. ANN B. COX.

I regret the unsuccessful trouble you have had, as well for you as myself, as any amount, recovered from my husband's great losses by the government, would have been useful and gratifying. Thinking Mr. Strawbridge's information sufficient, I have not asked any from the clerk of the United States district court.

Accept the assurances of my respect,

ANN B. COX.

Mr. CHARLES DE SELDING.